

JS 44 (Rev. 12/07)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Anthony J. Abrams, Ph.D.

DEFENDANTS

City of Philadelphia, City of Philadelphia Police Officer Eric R. Burke and City of Philadelphia Police Commissioner Charles H. Ramsey

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

Angelo J. Foglietta, Esquire
Foglietta, Shields & Muldoon, LLC
1528 Walnut Street, Suite 515
Philadelphia, PA 19102

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) SOCIAL SECURITY <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 FEDERAL TAX SUITS
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause:
Police Brutality

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE 9/3/10 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Anthony J. Abrams, Ph.D., 746 Judson Street, Philadelphia, PA 19120

Address of Defendant: City of Philadelphia, One Parkway, 1515 Arch Street, 14th Floor, Philadelphia, PA 19107

Place of Accident, Incident or Transaction: 5th & York Street, Philadelphia, PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Angelo J. Foglietta, Esquire, counsel of record do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 9/3/10

Attorney-at-Law

25003

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9/3/10

Attorney-at-Law

25003

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CASE MANAGEMENT TRACK DESIGNATION FORM**

Anthony J. Abrams, Ph.D.

CIVIL ACTION

v.

City of Phila., City of Phila. Police Officer Eric

R. Burke and City of Philadelphia Police

NO.

Commissioner Charles H. Ramsey

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

Date

9/3/10

Angelo J. Foglietta, Esquire
Foglietta, Shields & Muldoon
Attorney-at-law

Attorney for Plaintiff

(215) 545-1776 x101

(215) 545-1799

ajf@fsm-law.com

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

U.S.C. § 1983 and the Fourth Amendment of the United States Constitution.

II. JURISDICTION

2. This action is brought pursuant to 42 U.S.C. 1983 and the Fourth Amendment to the United States Constitution.

3. Jurisdiction against Defendants is founded on 28 U.S.C. §§ 1331 and 1343(3).

4. Jurisdiction lies over state law claims based on the principles of supplemental jurisdiction as codified at 28 U.S.C. § 1367.

5. The amount in controversy exclusive of interest and costs exceeds the sum of One Hundred Thousand (\$100,000.00) Dollars.

III. VENUE

6. All the claims herein arose within the jurisdiction of the United States District Court for the Eastern District of Pennsylvania and involve Defendants who reside within the jurisdictional limits. Venue is accordingly invoked pursuant to the dictates of 28 U.S.C. § 1391(b) and (c).

IV. PARTIES

7. Plaintiff, Anthony J. Abrams, Ph.D., is an adult individual citizen of the Commonwealth of Pennsylvania and resident of the City of Philadelphia residing herein at the above address.

8. Defendant, City of Philadelphia, is a municipality organized by and through the Commonwealth of Pennsylvania.

9. Defendant, Police Officer Eric R. Burke, is a City of Philadelphia Police Officer employed by and an agent of the City of Philadelphia. Defendant, Officer Eric R.

Burke, is sued in his individual and official capacities.

10. Defendant, City of Philadelphia Police Commissioner Charles H. Ramsey, is the Commissioner of the City of Philadelphia Police Department and is responsible for promulgation and enforcement of all policies, customs and practices regarding the City of Philadelphia Police Department.

V. FACTS

11. At all times relevant hereto, Dr. Abrams was a participant in the federally funded Motivational Interviewing Study of the University of New Mexico's Center on Alcoholism, Substance Abuse and Addictions interviewing individuals as part of the study.

12. On or about Monday, March 8, 2010, at approximately 5:30 p.m. – 6:00 p.m., plaintiff Anthony J. Abrams, Ph.D., was lawfully at the intersection of 5th & York Streets in the City of Philadelphia for a pre-arranged meeting with a patient/client of his that Dr. Abrams was interviewing, as part of the aforesaid Motivational Interviewing Study.

13. Dr. Abrams was attempting to locate this aforementioned patient/client and had just spoken to an unknown woman at the location who told him that she would be able to locate his patient/client.

14. Dr. Abrams followed this unknown woman around a corner at which point she asked for money to take Dr. Abrams to see his patient/client.

15. After some discussion, Dr. Abrams did provide this unknown woman with \$20.00 at which time she proceeded to walk away.

16. Dr. Abrams followed her for a short period and asked for his money back and she refused.

17. At that time, Dr. Abrams decided to leave and began walking back to his car.

18. At that time, the Defendant Police Officer, Eric R. Burke, pulled up in his police vehicle and exclaimed in a loud voice to Dr. Abrams, “you, get over here.”

19. Dr. Abrams immediately complied.

20. Officer Burke then asked Dr. Abrams what he was doing there and Dr. Abrams advised him that he was looking for a woman who was a patient/client of his and that he was a psychologist.

21. Immediately thereafter and with no provocation, Officer Burke forcefully threw Dr. Abrams to the ground banging his head on the street. He then placed his foot on Dr. Abrams head and said “tell me what you’re doing here or I’ll kick your fucking head in.”

22. Dr. Abrams then pleaded for Defendant Police Officer Burke to stop beating him and indicated again what he had just told him.

23. Defendant Officer Burke then continued to assault and curse the plaintiff.

24. Defendant Officer Burke kicked Dr. Abrams in the face several times. He then pulled Dr. Abrams up by his shoulders and punched him in the eye which caused Dr. Abrams to fall to the ground again.

25. As a direct and proximate result thereof, the Plaintiff began to bleed profusely.

26. At no time did Defendant Officer Burke ask for any identification or notify the Plaintiff Dr. Abrams that he had committed a crime or he was under arrest.

27. At no time was Plaintiff Dr. Abrams uncooperative, disrespectful or, in any way, oppositional or defiant.

28. As a direct and proximate result of Defendant Officer Burke's unlawful assault upon the Plaintiff, the Plaintiff was severely injured and sustained, *inter alia*, a crushed orbital floor bone of the eye socket which required surgical repair and necessitated a metal implant behind the eyeball. He also sustained injuries to his right hand and wrist.

29. As a further direct and proximate result of the assault by Defendant Officer Burke on the Plaintiff Dr. Abrams, he continues to see double at times through his right eye, and experiences headaches and has pain, stiffness, and swelling in his right hand/wrist.

30. Plaintiff's severe, debilitating and permanent injuries were a direct and proximate result of the City of Philadelphia's policies, customs and practices regarding the City of Philadelphia Police Department over which Defendant Police Commissioner Charles H. Ramsey has responsibility.

31. At all times relevant to this cause of action, Plaintiff was employed as the Director of Mental Health Services at the Bucks County Correctional Facility.

32. As a direct and proximate result of the actions of the Defendants herein as outlined above, Plaintiff was forced to miss substantial time from work, all to his economic detriment.

33. In an attempt to cover-up their unlawful conduct and in violation of Plaintiff's rights and freedoms, Defendant Burke along with the other City of Philadelphia Police Department Defendants and as a Police Officer employed by the Defendant City of Philadelphia swore out criminal complaints against Plaintiff for Aggravated Assault, Simple Assault, Recklessly Endangering Another Person (REAP), Resisting Arrest and Disorderly Conduct/Fighting, when Defendant Burke knew that Plaintiff had not committed any crime.

34. Said Defendant thereupon prepared all Police Reports and/or gave false statements, which he knew would be forwarded to a prosecuting attorney and relied upon by the prosecuting attorney in deciding whether to prosecute the Plaintiff and, if so, the manner in which Plaintiff's prosecution should be handled. In preparing and giving said reports and statements, said Defendant acted maliciously and willfully, in violation of Plaintiff's rights and freedoms.

35. After an investigation, each and every one of those charges were subsequently dismissed against the Plaintiff by the District Attorney of the City of Philadelphia.

COUNT I
VIOLATION OF 42 U.S.C. § 1983

PLAINTIFF V. DEFENDANT POLICE OFFICER ERIC R. BURKE

36. Plaintiff adopts and incorporates Paragraphs 1 through 35 as fully as though same were set forth herein at length.

37. Defendant Police Officer Eric R. Burke used excessive force thereby violating Plaintiff's rights under the laws of the Constitution of the United States, in particular, the Fourth Amendment, and his rights under the Constitution including 42

U.S.C. § 1983 and the laws of the Commonwealth of Pennsylvania.

38. Without any justification or provocation, Defendant Police Officer Eric R. Burke willfully and maliciously caused the Plaintiff to suffer severe injuries including, but not limited to, a crushed orbital floor bone (eye socket) which necessitated surgical repair and a metal implant behind Plaintiff's eyeball which said injury continues to cause Plaintiff to see double out of his right eye. This injury continues to date and may continue to exist for an indefinite time in the future.

39. As a direct and proximate result of the aforesaid acts of Defendant Police Officer Eric R. Burke committed under color of his authority as a City of Philadelphia Police Officer, Plaintiff suffered grievous bodily injury which is a violation by said Defendant of the laws and Constitution of the United States, in particular, the Fourth Amendment of the United States Constitution and 42 U.S.C. § 1983, and was further in violation of the Statutes of the Commonwealth of Pennsylvania and the Constitution of the United States all of which makes said Defendant liable to Plaintiff.

40. The acts committed by Defendant as outlined above constitute intentional misconduct, excessive use of force and deliberate indifference to Plaintiff which caused the previously described injuries to the Plaintiff in violation of his constitutional rights as previously set forth in the aforementioned paragraphs. The acts constitute an excessive use of force in violation of the Fourth Amendment to the United States Constitution and 42 U.S.C. § 1983.

WHEREFORE, Plaintiff demands judgment against Defendant Police Officer Eric R. Burke in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) for interest, costs, attorney's fees and punitive damages.

***COUNT II
BATTERY***

PLAINTIFF V. DEFENDANT POLICE OFFICER ERIC R. BURKE

41. Plaintiff adopts and incorporates by reference the allegations in Paragraphs 1 through 40 as fully as though same were set forth herein at length.

42. Said Defendant, without provocation, justification, permission or cause, did commit battery upon the person of the Plaintiff by deliberately beating the Plaintiff without any just provocation, justification, permission or cause as outlined previously.

43. As a direct and proximate result of Defendant's battery, Plaintiff suffered the injuries aforesaid.

WHEREFORE, Plaintiff demands judgment against Defendant Police Officer Eric R. Burke in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) for interest, costs, attorney's fees and punitive damages.

***COUNT III
ASSAULT***

PLAINTIFF V. DEFENDANT POLICE OFFICER ERIC R. BURKE

44. Plaintiff adopts and incorporates by reference the allegations in Paragraphs 1 through 43 herein as fully as though same were set forth at length.

45. Defendant, without provocation, justification, permission or cause did commit an assault upon the person of the Plaintiff by deliberately beating the Plaintiff without any just provocation, justification, permission or cause as outlined previously.

46. As a direct result of Defendant's assault, Plaintiff suffered the injuries aforesaid.

WHEREFORE, Plaintiff demands judgment against Defendant Police Officer Eric R. Burke in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) for interest, costs, attorney's fees and punitive damages.

COUNT IV
VIOLATIONS OF 42 U.S.C. § 1983
FAILURE TO TRAIN

PLAINTIFF V. DEFENDANTS CITY OF PHILADELPHIA
AND POLICE COMMISSIONER CHARLES H. RAMSEY

47. Plaintiff adopts and incorporates by reference the allegations in Paragraphs 1 through 46 as fully as though same were set forth herein at length.

48. Defendants City of Philadelphia and Police Commissioner Charles H. Ramsey failed to properly train and supervise Defendant Police Officer Eric R. Burke.

49. As such, said Defendants were grossly negligent, deliberately indifferent and reckless with respect to the potential violations of the constitutional rights of the citizens of the City of Philadelphia, Commonwealth of Pennsylvania.

50. Defendants City of Philadelphia and Police Commissioner Charles H. Ramsey's failures were the moving force behind the actions of Defendant Police Officer Eric R. Burke resulting in the severe and debilitating injuries of the Plaintiff aforesaid.

WHEREFORE, Plaintiff demands judgment against Defendants City of Philadelphia and Police Commissioner Charles H. Ramsey in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) for interest, costs, attorney's fees and punitive damages.

COUNT V
VIOLATIONS OF 42 U.S.C. § 1983

PLAINTIFF V. DEFENDANTS CITY OF PHILADELPHIA
AND POLICE COMMISSIONER CHARLES H. RAMSEY

51. Plaintiff adopts and incorporates by reference the allegations in Paragraphs 1 through 50 as fully as though same were set forth herein at length.

52. Defendants City of Philadelphia and Police Commissioner Charles H. Ramsey developed and maintained a number of deficient policies and/or customs which caused the deprivation of Plaintiff's constitutional rights.

53. Said Defendants' policies and customs encouraged Police Officer Eric R. Burke to believe that he could violate the constitutional rights of the Plaintiff herein with impunity and with the explicit or tacit approval of Defendants City of Philadelphia and Police Commissioner Charles H. Ramsey.

54. Defendants City of Philadelphia and Police Commissioner Charles H. Ramsey's policies and customs were a direct and proximate cause of injuries suffered by the Plaintiff herein.

WHEREFORE, Plaintiff demands judgment against Defendants City of Philadelphia and Police Commissioner Charles H. Ramsey in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) for interest, costs, attorney's fees and punitive damages.

COUNT VI
SUPPLEMENTAL STATE CLAIMS

PLAINTIFF V. ALL DEFENDANTS

55. Plaintiff adopts and incorporates by reference the allegations in Paragraphs 1 through 54 as fully as though same were set forth herein at length.

56. The acts and conduct of the Defendants herein, including Police Officer Eric R. Burke, City of Philadelphia Police Commission Charles H. Ramsey and The City of Philadelphia, in this cause of action constitute, *inter alia*, assault, battery, defamation, invasion of privacy, intentional infliction of emotional distress, false arrest, false imprisonment, and malicious prosecution under the laws of the Commonwealth of Pennsylvania, this Court has supplemental jurisdiction to hear and adjudicate these claims.

WHEREFORE, Plaintiff demands judgment against all Defendants herein in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) for interest, compensatory damages, costs, attorney's fees and punitive damages.

JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

FOGLIETTA, SHIELDS & MULDOON, LLC

By: 

ANGELO J. FOGLIETTA, ESQUIRE

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Attorney for Plaintiff

Anthony J. Abrams, Ph.D.

Date: September 3, 2010